

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

William Jason Everett,

Petitioner,

v.

**Order**

Civil File No. 10-2771(MJD/JJG)

Scott Peter Fisher, Warden,  
Federal Correctional Institution,

Respondent.

---

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeanne J. Graham dated August 13, 2010. [Docket No. 4] Petitioner Everett filed objections to the Report and Recommendation. Pursuant to statute, the Court has conducted a de novo review of the record, including all transcripts filed and exhibits submitted to the Court. 28 U.S.C. § 636(b)(1); Local Rule 72.2(b). Based upon that review, the Court **ADOPTS** the Report and Recommendation. A more full analysis of Eighth Circuit precedent on this issue can be found in this Court's ruling in *Shinault v. Roal*, 10-cv-3575 (MJD/FLN).

Accordingly, based upon the files, records, and proceedings herein, **IT IS**

**HEREBY ORDERED** that:

1. The Court **ADOPTS** the Magistrate Judge's Report and Recommendation dated August 13, 2010 [Docket No. 4]
2. Petitioner's action is **DISMISSED WITHOUT PREJUDICE**

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: October 22, 2010

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court